Approvals Procedures for Land Development

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APPROVALS PROCEDURES

FOR

LAND DEVELOPMENT

SECOND EDITION

PROVINCE OF BRITISH COLUMBIA
ENVIRONMENT AND LAND USE COMMITTEE

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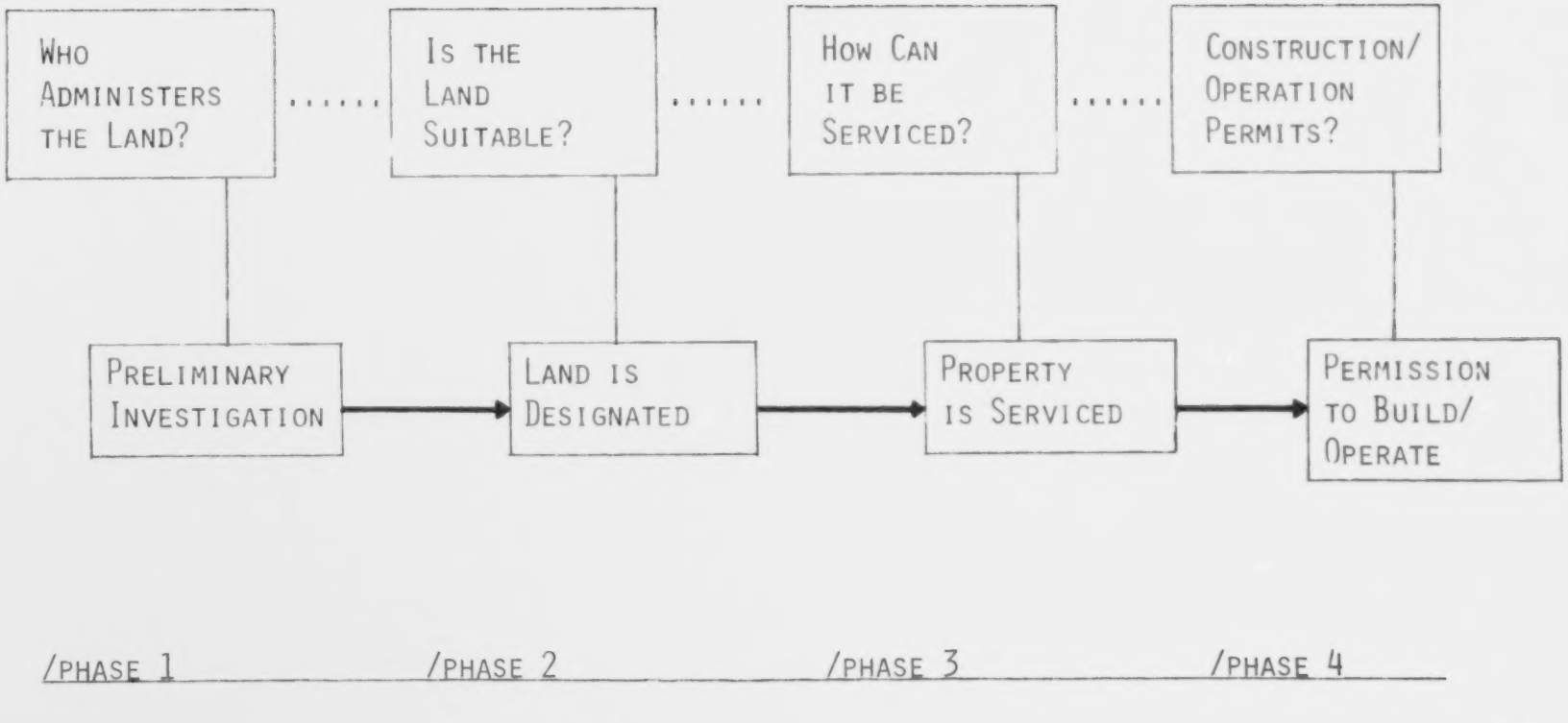
FOREWORD

This brochure outlines the current general framework of the approvals procedures for land development in the Province. To assist in facilitating development activity this brochure presents a practical guide to the key questions involved in gaining the necessary approvals and permits for a development. In addition, the Ministry of Deregulation and the provincial Ministries responsible for different aspects of approvals procedures are currently examining the methods of considering development applications in order to streamline administrative processes, arrive at decisions more quickly, and thereby decrease the costs of both obtaining and granting approvals.

THE DEVELOPMENT APPROVAL PROCESS



INTRODUCTION

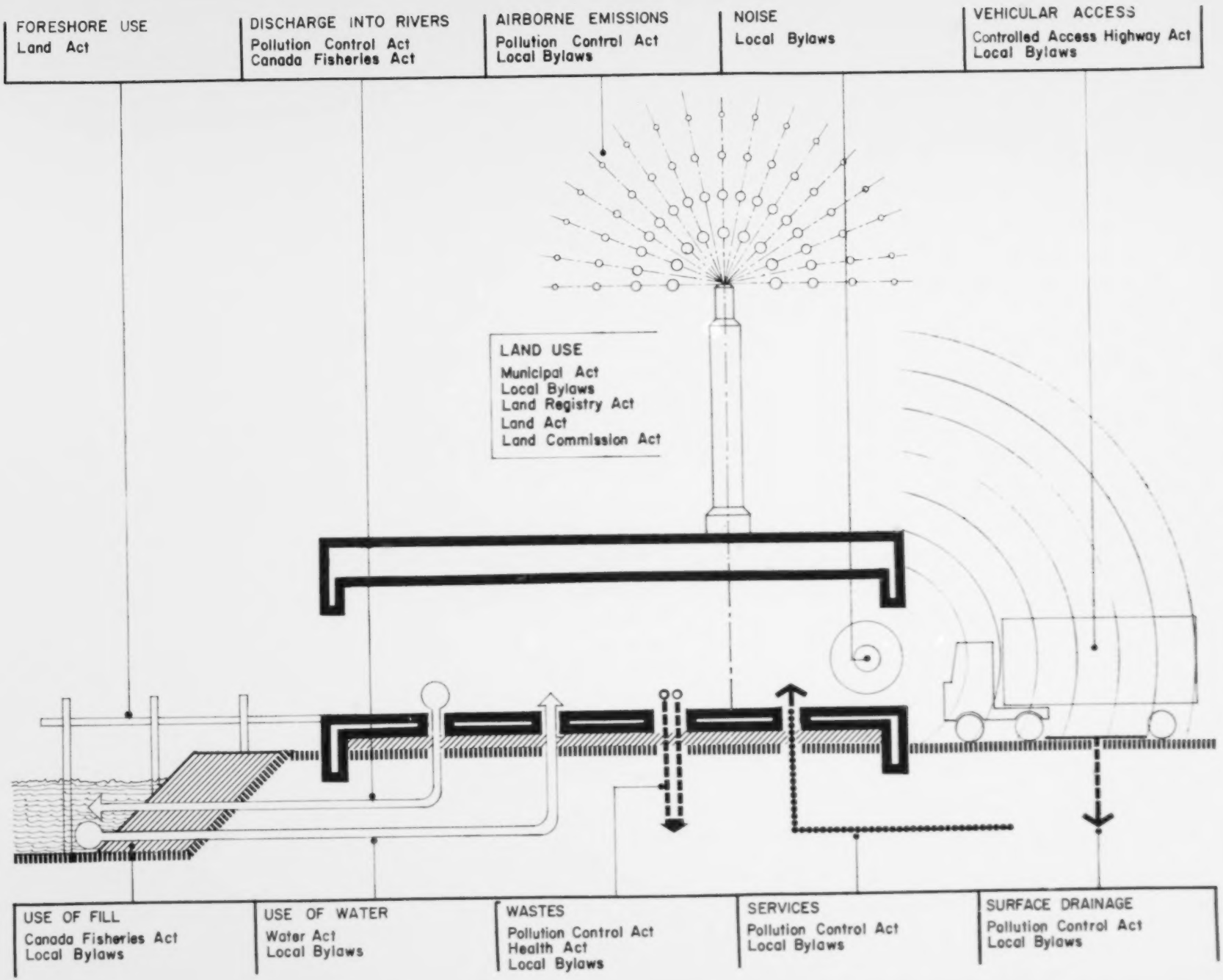
This brochure sets out the framework of the approvals procedures employed by local, provincial and federal government agencies as they apply to the development of land. Its purpose is to clarify and promote a better understanding of the process. It was prepared specifically with the development of industrial and commercial property in mind. The procedures are similar for residential development, except that those approvals and permits necessary for non-residential uses will not, of course, apply.

The process is described in four phases:

1. PRELIMINARY ADMINISTRATIVE INVESTIGATION: WHO ADMINISTERS THE LAND?
2. DESIGNATION (ZONING): IS IT SUITABLE FOR THE PROPOSED DEVELOPMENT?
3. SERVICING: HOW CAN IT BE SERVICED?
4. DEVELOPMENT: CONSTRUCTION/OPERATION

This brochure aims to be comprehensive; it outlines all of the potential areas of approval as well as the appeal procedures for each. It is stressed that not every approval will be necessary for every development. If a project is consistent with community plans, has a suitable design, and can use existing services, it proceeds through a streamlined approval route. In areas where Official Plans have been adopted and approved, some Provincial approvals (such as highway access) become unnecessary. As more of these Plans are prepared, a correspondingly greater number of developments will follow this simplified procedure.

This summary, while comprehensive, only provides guideposts to the approvals process and is not a detailed map. The details vary according to local requirements and are not static. Those using the brochure should contact the nearest offices of the appropriate government agencies for detailed advice on their particular requirements, such as zoning and building bylaws, community health regulations, etc.


FORESHORE USE
Land Act
DISCHARGE INTO RIVERS
Pollution Control Act
Canada Fisheries Act
AIRBORNE EMISSIONS
Pollution Control Act
Local Bylaws
NOISE
Local Bylaws
VEHICULAR ACCESS
Controlled Access Highway Act
Local Bylaws
LAND USE
Municipal Act
Local Bylaws
Land Registry Act
Land Act
Land Commission Act
USE OF FILL
Canada Fisheries Act
Local Bylaws
USE OF WATER
Water Act
Local Bylaws
WASTES
Pollution Control Act
Health Act
Local Bylaws
SERVICES
Pollution Control Act
Local Bylaws
SURFACE DRAINAGE
Pollution Control Act
Local Bylaws

THE APPROVALS PROCESS

The diagram on the facing page shows a development which might be either a factory or warehouse, etc., and its relationships with the surrounding air, land and water. Also shown are the statutes and local bylaws which are the basis of the regulations and procedures described below.

The aim of the approvals process is to answer the basic question:

IS THE PROPOSED DEVELOPMENT COMPATIBLE WITH THE PROPOSED SITE?

in terms of

PUBLIC HEALTH: effluent, emissions, hazardous processes, etc.
PUBLIC SAFETY: fire risk, natural hazards, traffic, etc.
PUBLIC SERVICES: water, sewer and waste systems, access, etc.
RESOURCE MANAGEMENT: water quality/quantity, habitat protection, adjacent land uses, alternative land uses, etc.
EFFECT ON AMENITY: noise, visual aspects, congestion, etc.

These are considered differently depending on the characteristics of the proposed development, its location and the administrative status of the land. Administrative considerations are the first phase in the process.

PHASE 1: ADMINISTRATIVE INVESTIGATION

A. WHO ADMINISTERS THE LAND?

At the beginning of the development approval process the question "Who administers development control over the land?" must be answered in order to determine the specific approval agencies, their information requirements, procedures and the form their approvals will take.

1. LOCAL GOVERNMENT

- REGIONAL DISTRICT BOARDS
- MUNICIPAL COUNCILS

All land in B.C. (with the exception of the Stikine area of the far north) is in a Regional District. Within the Regional Districts, land may be in incorporated areas (cities, towns, district municipalities, etc.), or in unincorporated areas. Local government in B.C. is given increased control over local land-use decisions as one moves from unincorporated areas to municipalities and as local governments prepare Official Plans.

2. PROVINCIAL CROWN LAND

Unreserved Crown Land is administered by the Ministry of Lands, Parks and Housing. (Reserved Crown Lands are administered by other Provincial Ministries and are not generally available for development.)

3. SPECIAL CASES

- FORESHORE

There are also a number of special cases which must be considered in this administrative phase.

1) Foreshore Rights - are the responsibility of the Ministry of Lands, Parks and Housing.

- AGRICULTURAL LAND RESERVE

2) The Agricultural Land Reserve, created for the purpose of preserving the province's agricultural land base, may apply on private or Crown Land in either incorporated or unincorporated areas. For either the exclusion of a site from the ALR or the development of a conditionally permitted agricultural industry within the ALR, the Agricultural Land Commission exercises authority (in consultation with the Regional District).

- INDIAN LANDS

3) Indian Lands are exempt from provincial jurisdiction when the land is used by Indians.

- HARBOURS

4) Harbour Lands. Some areas of the Province are administered by the National Harbours Board (Lower Mainland, Prince Rupert), or come under the Harbour Commission Act (e.g. Nanaimo, Alberni, North Fraser). Development within these designated harbour areas is subject to special provisions under Federal and Provincial harbours legislation.

- FEDERAL LANDS

5) Federal Lands. Land administered by such Federal agencies as Department of National Defence, Ministry of Transport, etc., is not subject to provincial or local government controls. In practice, federal agencies consult with those responsible for administering the adjoining land, and the provincial and local responsibilities for access and servicing require a developer to work with all agencies affected by the development proposal.

- CANADA FISHERIES ACT

6) Canada Fisheries Act, 1977, provides for the protection of the fisheries resource through habitat protection, pollution control, etc. As shown in the charts, the Federal Fisheries' interests may be determined by provincial and municipal agencies, and a development in an area which is under the jurisdiction of this Act must meet the requirements of the Federal Fisheries and Oceans Ministry.

B. IS THERE A PLAN?

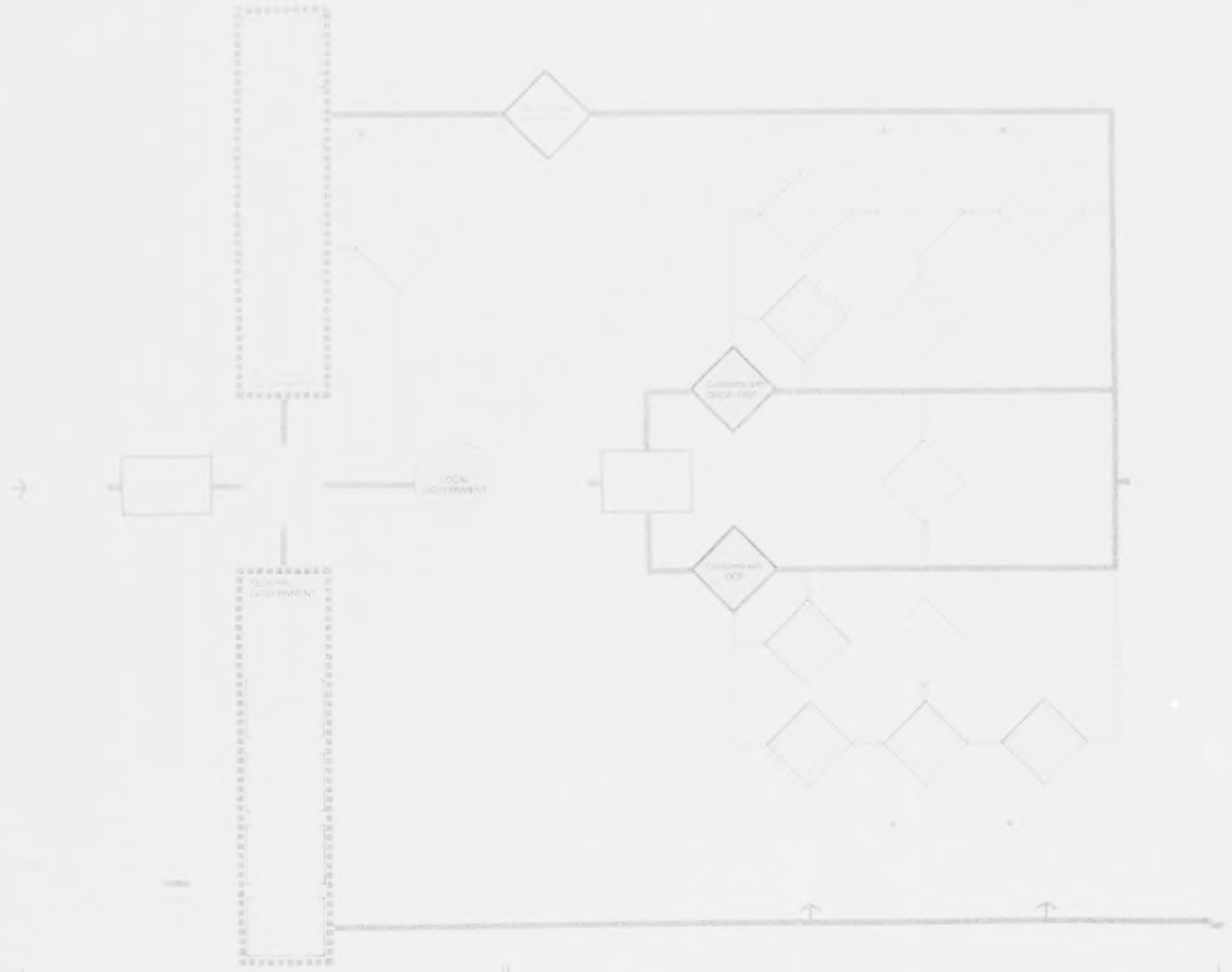
1. MUNICIPAL - OFFICIAL COMMUNITY PLANS

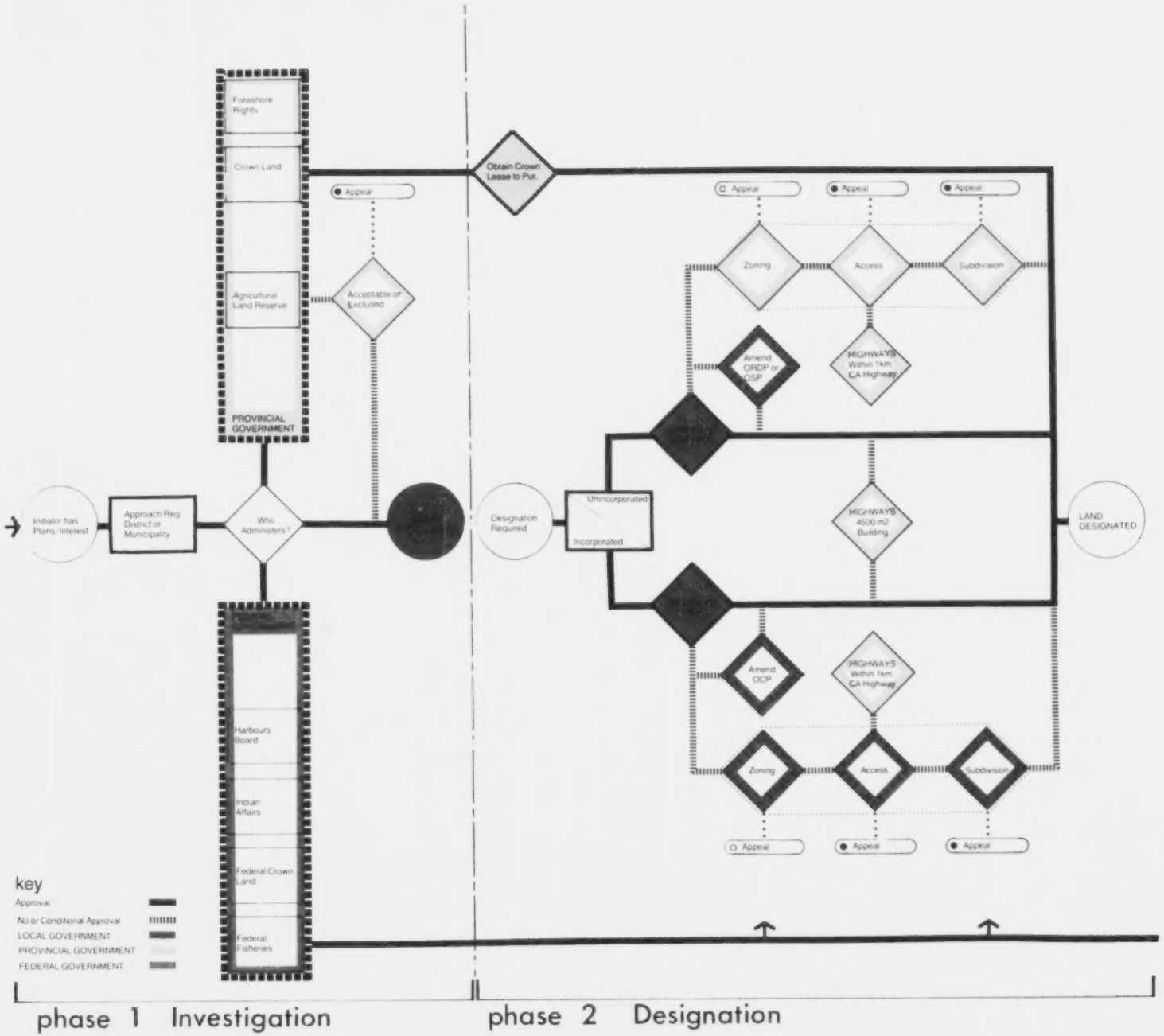
2. REGIONAL DISTRICT - OFFICIAL PLANS & OFFICIAL SETTLEMENT PLANS

Municipalities may adopt Official Community Plans, and it is the responsibility of Regional Boards to prepare plans of a general nature covering the Regional District, and more specific plans (Official Settlement Plans) covering unincorporated areas. These plans outline local development policy and set the framework of development controls. Under the Municipal Act, where Official Community Plans and Official Settlement Plans have been approved by the Ministers of Municipal Affairs, and Transportation, Communications and Highways, the degree of local control increases.

3. MINISTRY OF LANDS, PARKS AND HOUSING - PRE-DESIGNATION OF SUITABLE SITES

On unreserved Crown Land, new procedures have been adopted to streamline the allocative role of the Ministry of Lands, Parks and Housing through identification of suitable land in advance of proposals for development.


LOCAL GOVERNMENT
REGIONAL GOVERNMENT
phase 1 Investigation
phase 2 Designation


Foreshore Rights
Crown Land
Agricultural Land Reserve
PROVINCIAL GOVERNMENT
Appeal
Acceptable or Excluded
Obtain Crown Lease to Pur.
Appeal
Appeal
Appeal
Zoning
Access
Subdivision
Amend ORDP or OSP
HIGHWAYS Within 1km CA Highway
Initiator has Plans/Interest
Approach Reg. District or Municipality
Who Administers?
Designation Required
Unincorporated
Incorporated
HIGHWAYS 4500 m2 Building
LAND DESIGNATED
Amend OCP
HIGHWAYS Within 1km CA Highway
Zoning
Access
Subdivision
Appeal
Appeal
Appeal
Harbours Board
Indian Affairs
Federal Crown Land
Federal Fisheries
key
Approval
No or Conditional Approval
LOCAL GOVERNMENT
PROVINCIAL GOVERNMENT
FEDERAL GOVERNMENT
phase 1 Investigation
phase 2 Designation

PHASE 2: DESIGNATION

The key question in the designation phase is

IS THE LAND SUITABLE FOR THE PROPOSED DEVELOPMENT?

The exact procedure depends on who administers the land and the type of plans in place. The chart opposite shows, in phase 1, the administrative investigation which should be made, and in phase 2, the different streams which may be followed in designation. The colour-coding indicates the different levels of government involved, and appeals are indicated at each step either by an open circle (for informal appeals) or by a solid circle (for formal appeals). Further details concerning appeal procedures are provided in Appendix I, page 12.

CROWN LAND

A proposal for development on Crown Land is handled by the Ministry of Lands Parks and Housing, and approval-in-principle for the development is granted through a Lease-to-Purchase agreement. If the land has not been designated by the Ministry's planning process, an inter-agency referral process is used to canvass the views of other agencies. (The agencies included in the referral process are listed in Appendix II, page 15.) If the land has been designated for industrial use the referral stage is omitted and the Lease-to-Purchase is more quickly processed.

LOCAL GOVERNMENT: OFFICIAL PLANS IN PLACE

DESIGNATED/CONFORMS TO PLAN(S)?

Adherence to a plan which provides for the proposed use helps ensure both that the site is compatible with other land uses and is readily serviced. If the land proposed for development is designated in Official Plans, the development proposal will move directly to Phase III: Servicing (with the exception of a proposal for a building of greater than 4500 square metres).

DOES NOT CONFORM TO PLANS?

If the plans do not designate the land for the proposed use, a request may be made to the local government to amend the plans and regulatory bylaws, or an alternative site can be sought. (A plan will normally present a range of sites which is suitable and readily serviced.)

LOCAL GOVERNMENT: NO OFFICIAL PLANS

UNINCORPORATED AREAS

If there is no Official Settlement Plan covering an unincorporated area, the Regional District Board (with the approval of the Minister of Municipal Affairs) may adopt zoning, subdivision and other bylaws regulating development.

ZONING

Regional District zoning bylaws may regulate both land use and the types of buildings erected.

ACCESS

In addition to provisions in the Regional District's zoning or subdivision bylaws, the Ministry of Transportation, Communications and Highways is the approval agency for access.

SUBDIVISION

If the development proposal involves the subdivision of land, this may be regulated by the Regional District's subdivision bylaw with respect to the area, shape, etc., of the lots, as well as the provision of access and other services. However, under the Land Registry Act, the approval of a subdivision rests with the Ministry of Transportation, Communications and Highways. A referral system is used to canvass the views of other agencies. (These are listed in Appendix II.)

INCORPORATED AREAS

In incorporated areas, a proposal for industrial development must conform to the municipal zoning and subdivision bylaws and to the provincial Controlled Access Highways Act and Land Registry Act.

ZONING

Municipal zoning bylaws may regulate both land use and the types of buildings erected, and if the site is within 800 metres of an intersection of a Controlled Access highway, zoning must be approved by the Ministry of Transportation, Communications and Highways.

SUBDIVISION

If the development proposal involves the subdivision of land, this may be regulated by the municipality's subdivision bylaw with respect to area, shape, etc., of the lots, as well as the provision of access and other services. Under the Land Registry Act, the Approval Officer for the municipality must refer areas likely to flood to the Water Investigations Branch of the Ministry of the Environment, access to Controlled Access or arterial highways to the Ministry of Transportation, Communications and Highways, and sewage disposal aspects to the Ministry of Health.

ACCESS

Access may be regulated under the zoning and subdivision bylaws of the municipality, and, if a Controlled Access or arterial highway is involved, must be approved by the Ministry of Transportation, Communications and Highways.

PHASE 3: APPROVALS FOR SERVICING

Following determination that the site is suitable for the proposed use, either through a Crown Lease-to-Purchase or by conformity with zoning, subdivision and access regulations, the servicing approvals must be obtained.* Depending on the type of development, the location, the ability to use existing services, the procedures and agency involvement will differ. Phase 3 in the chart opposite shows the use of existing services as the central (black) line, their conditional use below the line and the installation of new systems requiring provincial approvals above the line (outlined in green).

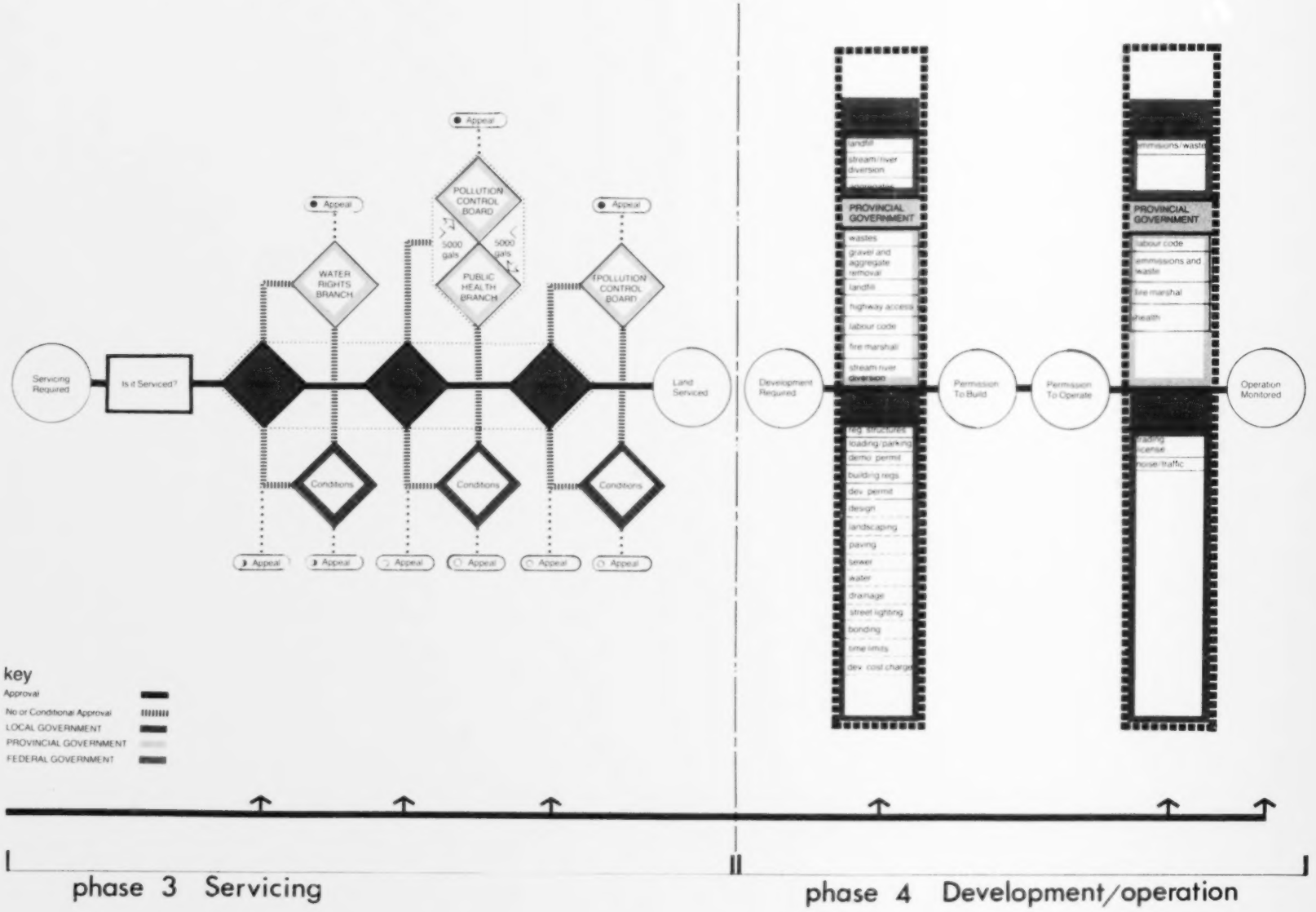
1. WATER

EXISTING SYSTEM

Water systems may be administered by a municipality or Regional District, a local Improvement District, Water Utility or Water Users Community. Applications to use an existing system must be made and, if permission is granted, conditions for use (such as volumes, charges, etc.) may be stipulated.

NEW SYSTEM

No licence or permit is required to use groundwater from source. To use surface water, a Water Licence must be obtained from the Water Rights Branch of the Ministry of the Environment which allocates water to users on a first-come, first-served basis. Fisheries and aquatic considerations are dealt with at this point through a referral to the B.C. Fish and Wildlife Branch, who are authorised to enforce the Federal Fisheries Act under a Federal-Provincial agreement; in addition, for domestic purposes, a referral is made to the Minister of Health for a licence.


Servicing Required
Is it Serviced?
Land Serviced
Appeal
POLLUTION CONTROL BOARD
5000 gals
5000 gals
PUBLIC HEALTH BRANCH
WATER RIGHTS BRANCH
POLLUTION CONTROL BOARD
Conditions
Conditions
Conditions
Development Required
landfill
stream/river diversion
PROVINCIAL GOVERNMENT
wastes
gravel and aggregate removal
landfill
highway access
labour code
fire marshal
stream river diversion
reg. structures
loading/parking
demo. permit
building regs.
dev. permit
design
landscaping
paving
sewer
water
drainage
street lighting
bonding
time limits
dev. cost charges
Permission To Build
Permission To Operate
emissions/waste
PROVINCIAL GOVERNMENT
labour code
emmissions and waste
fire marshal
health
noise/traffic
Operation Monitored
key
Approval
No or Conditional Approval
LOCAL GOVERNMENT
PROVINCIAL GOVERNMENT
FEDERAL GOVERNMENT
phase 3 Servicing
phase 4 Development/operation

2. Sewer

Existing System

Existing sewer systems may be administered by a local Improvement District, municipality or Regional District.

New System

A Pollution Control permit is required to dispose of sewage and other liquid effluent. If the discharge is to the ground and is less than 5000 gallons per day, application is made to the local Health Unit, if greater than 5000 gallons per day, to the Pollution Control Branch. Applications for Pollution Control permits are referred to the B.C. Fish and Wildlife Branch.

3. Waste

Provision for waste disposal (other than normal sewage) may be available locally and suited to the proposed development. If no local system is suited, a Pollution Control permit is necessary for waste disposal to air, water or land.

Development by Crown Lease-to-Purchase

The terms of the lease will spell out the servicing requirements; however, the necessary permits, such as those for Pollution Control, must be applied for and obtained from the appropriate agencies. If servicing aspects have been fully considered in the earlier referral stage, this should be routine.

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*This describes only those services for which provincial and local government approvals are required; it does not include other services such as telephone, electricity, gas, railway, etc.

PHASE 4: DEVELOPMENT: CONSTRUCTION/OPERATION

In this final stage, the characteristics of the development and its location must be treated as an individual case. Phase 4 of the chart, facing page 9, provides a list of local, provincial and federal areas of concern which might be involved in a proposal.

APPENDIX I: APPEAL PROCEDURES

There is provision for appeal from an unfavourable decision at each point in the designation and servicing phases of the approvals process. Some of these are formal or statutory appeal mechanisms (indicated below by an asterisk *), while others are informal and at the discretion of the agency concerned. In general, provincial agencies have formal appeal procedures, while appeals from decisions of local Councils or Regional District Boards are at their discretion and may be limited to a request by a developer for reconsideration of his proposal, or for amendments to bylaws or plans. Appeal mechanisms at Phase 4: Development/Operation, have not been described owing to the variable nature of approvals which may be necessary.

PHASE 1: ADMINISTRATIVE INVESTIGATION

*Agricultural Land Reserve

Appeals from a decision of the Agricultural Land Commission may be made to the Environment and Land Use Committee of Cabinet.

PHASE 2: DESIGNATION

Crown Lease-to-Purchase Agreement

Appeal can be made to the Lands and Housing Regional Operations Division, Ministry of Lands, Parks and Housing.

Unincorporated Area
- with Official Settlement Plan

A request to amend an Official Settlement Plan and, if necessary, the Official Regional District Plan can be made to the Regional District Board. Amendments must be approved by the Minister of Municipal Affairs, and may be approved by the Ministry of Transportation, Communications and Highways.

- WITHOUT OFFICIAL SETTLEMENT PLAN

ZONING	A request to amend a bylaw can be made to the Regional District Board. Any change in the bylaw must be approved by the Minister of Municipal Affairs An appeal can be made to the local Board of Variance on interpretation of the bylaw or on small variations to the siting of buildings.
ACCESS	A request to the Board for reconsideration can be made. An appeal from a decision under the Controlled Access Highways Act may be made to the Minister of Transportation, Communications and Highways.
* SUBDIVISION	A request to the Board for amendment of the subdivision bylaw can be made. A change in the bylaws must be approved by the Minister of Municipal Affairs. An appeal from the Ministry of Transportation, Communications and Highways' Approval Officer may be taken to the Courts.

INCORPORATED AREA
- WITH OFFICIAL SETTLEMENT PLAN

A request to amend an Official Community Plan can be made to the local Council.

- WITHOUT OFFICIAL SETTLEMENT PLAN

ZONING	A request to amend the bylaw can be made to the local Council. An appeal can be made to the local Board of Variance on bylaw interpretation, or on small variations to the siting of buildings.

ACCESS	A request to the local Council can be made for reconsideration. An appeal from a decision under the Controlled Access Highways Act may be made to the Minister of Transportation, Communications and Highways.
SUBDIVISION	A request to amend the bylaw can be made to the local Council.

PHASE 3: APPROVALS FOR SERVICING

WATER USE OF AN EXISTING SYSTEM	Appeal mechanisms depend on the type of authority administering the system. In a municipality or Regional District, a request can be made to the local Council or Board to reconsider a decision not to grant service or the conditions for use of the service. In an Improvement District, Water Utility or Water Users Community, an appeal may be made to the Comptroller of Water Rights of the Ministry of the Environment, and in some cases from the Comptroller to the Cabinet and the Courts.
* NEW SYSTEM	Appeals regarding the installation of a new system can be made to the Comptroller of Water Rights and the Cabinet.
SEWER USE OF AN EXISTING SYSTEM	In a municipality or Regional District, a request for reconsideration of an unfavourable decision can be made to the local Council or Board.
* NEW SYSTEM	An appeal from the decision of the local official of the Ministry of Health may be made to the local Board of Health, and from there can be made to the Cabinet and the Courts.
* WASTE	An appeal from an order of the Pollution Control Board can be made to the Cabinet or the Courts.

HIGHWAYS

1. Ministry of Transportation, Communications and Highways (used in subdivision approval).

Depending on the nature of the development proposal, three or more of the following agencies will be canvassed for their views:

- Ministry of Transportation, Communications and Highways
- Local Medical Health Officer
- Regional district
- Water district
- An improvement district that is not a water district
- Water Rights Branch, Ministry of the Environment
- Adjacent municipality
- Fish & Wildlife Branch, Ministry of the Environment
- Power or utility company
- The telephone company
- The school district
- Gas utility company
- The Islands Trust for subdivisions under its jurisdiction
- Environmental & Engineering Services, Ministry of the Environment

CROWN LANDS

2. Ministry of Lands, Parks and Housing (used in approval of Crown Lease-to-Purchase agreements):

- Ministry of Agriculture
- Ministry of Forests
- Local Medical Health Officer
- Ministry of Transportation, Communications and Highways
- The Islands Trust for land under its jurisdiction
- Ministry of Energy, Mines and Petroleum Resources/Mining Recorder
- Provincial Archaeologist
- Environmental & Engineering Services, Ministry of the Environment
- Improvement district
- Livestock Association
- Municipality/Regional District
- Environment Canada
- Fish & Wildlife Branch, Ministry of the Environment

APPENDIX III: PUBLIC HEARINGS

As preparation for and involvement in public hearings are frequently of concern, the following list of points at which public hearings may occur has been prepared.

PHASE 1: ADMINISTRATIVE INVESTIGATION		none
PHASE 2: DESIGNATION		
	CROWN LAND	none
	LOCAL GOVERNMENT	- adoption or amendment of Official Plans requires a public hearing - adoption, amendments or repeal of zoning bylaw requires a public hearing
PHASE 3: SERVICING		
	WATER	- applications for a Water Licence may involve a public hearing, at the discretion of the Comptroller of Water Rights
	SEWAGE AND WASTE	- the Director of the Pollution Control Branch may at his discretion conduct a public inquiry to consider objections to an application for a Pollution Control Permit. Provisions also exist for public hearings and inquiries on other matters.
PHASE 4: CONSTRUCTION/OPERATION		- procedures vary; local governments may conduct public hearings regarding the issuance of development permits

APPENDIX IV: INFORMATION BROCHURES

The following pamphlets and brochures explain some of the components of the approvals procedures and are available from the appropriate agency:

"What Happened to My Subdivision Application?", Ministry of Transportation, Communications and Highways.

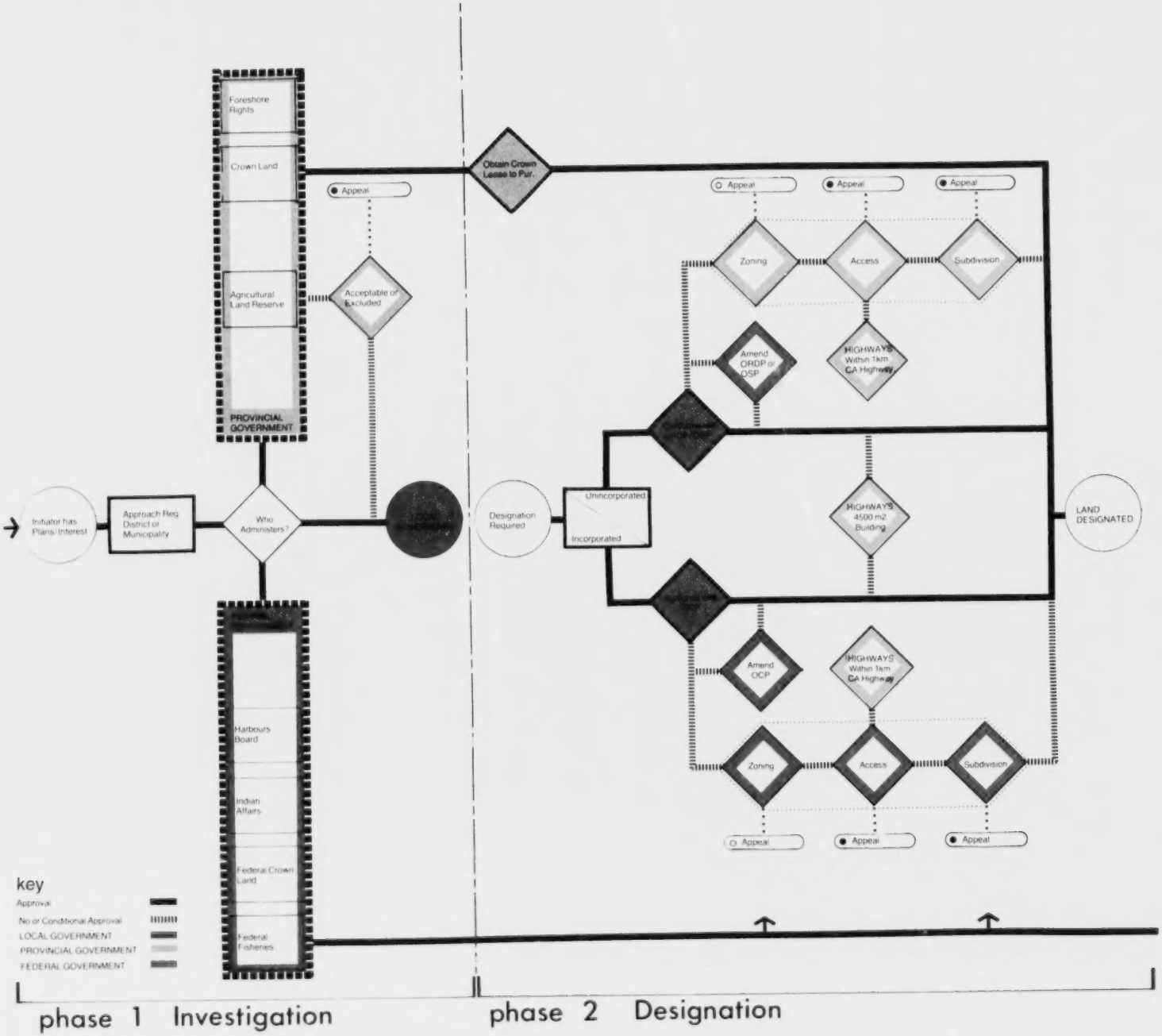
"General Information on Water Law in B.C.", Ministry of Environment, Water Rights Branch.

"Pollution Control Objectives" for Forest Products, Chemical and Petroleum, Mining, Milling and Smelting Industries, and Municipal Type Waste Discharges, Ministry of Environment Pollution Control Branch.

"Crown Land in B.C.", Ministry of Lands, Parks and Housing.

"Canada's Fisheries Act Has Been Amended....It Could Affect You", Fisheries and Environment Canada.

"Waterworks Systems Guidelines", Ministry of Environment (Division of Environmental and Engineering Services)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Obtain Crown Lease to Pur.
Initiator has Plans/ Interest
Approach Reg. District or Municipality
Who Administers?
Designation Required
Unincorporated
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Zoning
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Subdivision
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HIGHWAYS 4500 m2 Building
LAND DESIGNATED
Amend OCP
HIGHWAYS Within 1km CA Highway
Harbours Board
Indian Affairs
Federal Crown Land
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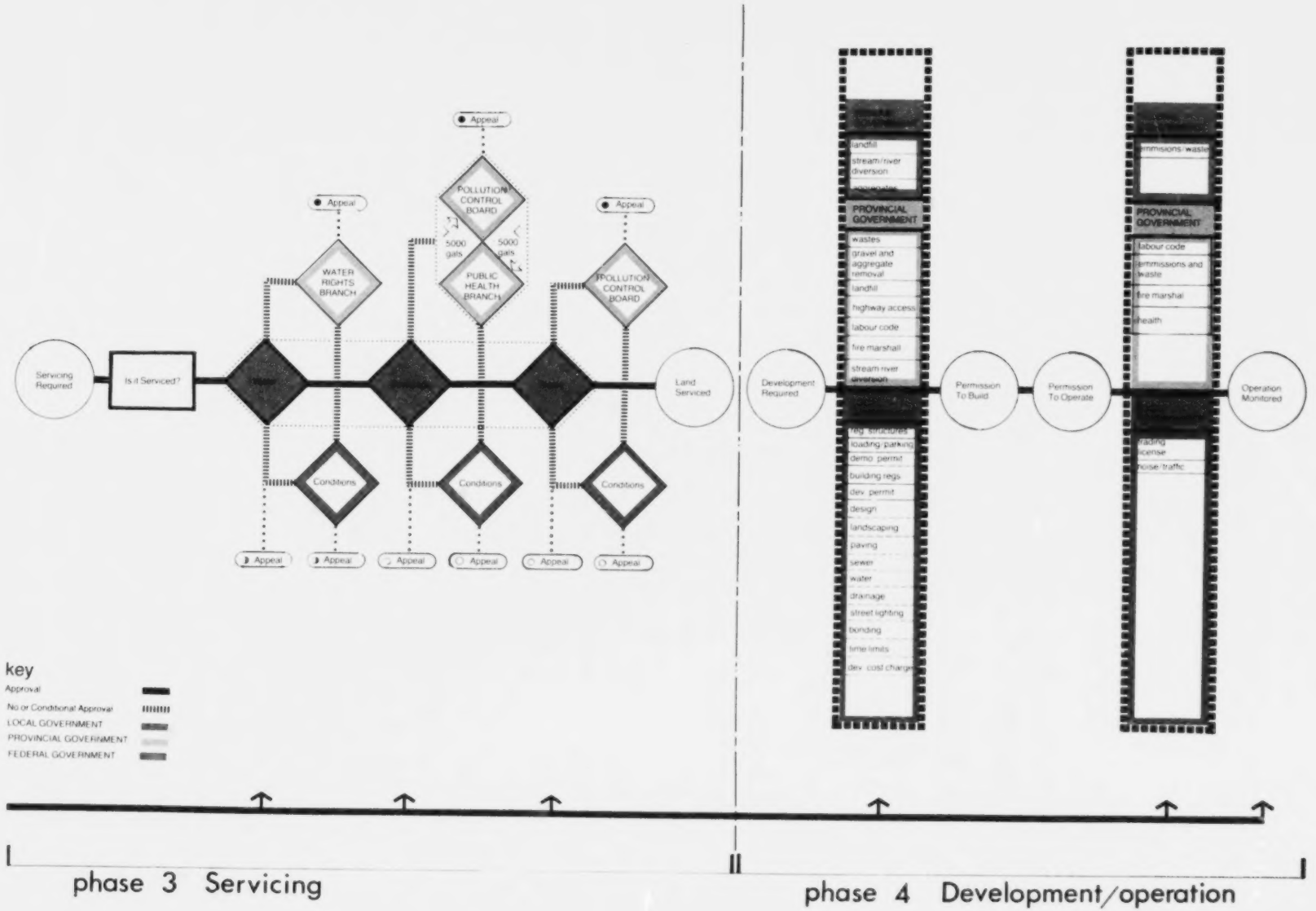
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labour code
fire marshall
stream river diversion
reg. structures
loading, parking
demo. permit
building regs
dev. permit
design
landscaping
paving
sewer
water
drainage
street lighting
bonding
time limits
dev. cost charges
Permission To Build
Permission To Operate
PROVINCIAL GOVERNMENT
labour code
permissions and waste
fire marshal
health
trading license
noise/traffic
Operation Monitored
key
Approval
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phase 3 Servicing
phase 4 Development/operation

notes